

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD ON
MARCH 13, 2007

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN, BRIAN FLORENCE
MEMBERS: EDWARD GALLAGHER
NUNZIO PROVENZANO
VICTORIA SELVA
DAWN SLOSSON

ABSENT: NONE

ALSO PRESENT: COLLEEN O'CONNOR, TOWNSHIP ATTORNEY
JEROME R. SCHMEISER, PLANNING CONSULTANT
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman FLORENCE called the meeting to order at 7:00 P.M.

1. Roll Call.

Secretary SLOSSON called the Roll Call. All members present.

2. PLEDGE OF ALLEGIANCE.

3. Approval of Agenda Items. *(with any corrections)*
Note: All fees have been received and all property owners were notified by mail

MOTION by GALLAGHER seconded by SLOSSON to approve the agenda as presented.

MOTION carried.

4. Approval of the previous meeting minutes:

MOTION by SELVA seconded by PROVENZANO to approve the meeting minutes of January 30, 2007 as presented.

MOTION carried.

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PURPOSE OF HEARING:

To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:
Agenda Number/Petitioner/ Permanent Parcel No. Zoning Ordinance Section No.

- (5) John Skolas Section 10.0311E(f)5
 Permanent Parcel 08-06-430-025

5. **VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;**
 Section 10.0311E(f)5-Request to reduce the required 10' setback from a structure, to
 5'.
 Located on the west side of Romeo Plank Road, ¼ mile north of 25 Mile Road;
 Section 6; Donald & Susan Gottshall, Petitioner. Permanent Parcel No. 08-06-430-
 025

Chairman FLORENCE read the findings and recommendations of March 8, 2007. They are
as follows:

The petitioner is requesting a variance to allow the construction of a pool in the rear yard of
their property to within 5' of the residential structure. The Township has allowed a variance
with the condition that a "hold harmless document" is recorded relieving the Township of
any liability in moving the pool close to the main structure (house) which may cause
structure problems to either the pool or the main structure (house).

The site plan presented by the petitioner indicates that the petitioner plans to install a pool on
the west side of the deck, outside the 20' easement which crosses the rear of the property.
The pool will be 7.5' from the sideyard property line, and 5' from the main structure
(house).

RECOMMENDATION:

It is recommended that the variance request to allow the swimming pool to be located 5'
from the main structure (house) be approved if the petitioner will provide a "hold harmless
document" relieving Macomb Township of any liability in the event the proximity of the
pool to the main structure (house) causes any damage to either the pool or the main
structure. Said document to be approved by the Township Attorney and recorded at the
Macomb County Register of Deeds office.

Donald Gottshall, petitioner, was in attendance.

Member GALLAGHER asked if the pool was fiberglass.

Donald Gottshall stated it would be an inground fiberglass pool.

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Public Portion: None.

MOTION by SELVA seconded by SLOSSON to close the public portion.

MOTION carried.

The following resolution was offered by GALLAGHER and seconded by PROVENZANO:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0311E(f)5-Request to reduce the required 10' setback from a structure, to 5'; Located on the west side of Romeo Plank Road, ¼ mile north of 25 Mile Road; Section 6; Donald & Susan Gottshall, Petitioner. Permanent Parcel No. 08-06-430-025. The variance was granted since the pool will be fiberglass which has less problems than others and contingent upon filing a "Hold Harmless Agreement".

MOTION carried.

6. OLD BUSINESS

Colleen O'Connor, Township Attorney, informed the members on a hearing that had previously been heard by them regarding the Wade Nursery property, in which their decision was to deny the variance request. The decision of the board was appealed by the petitioner to the Circuit Court where their decision was overturned. The matter was further appealed by the Township to the Michigan Court of Appeals where the decision was to overturn the Circuit Court and to uphold the Zoning Board of Appeals decision. She further went on to explain the importance of establishing the factual basis of either granting or denying a variance being sought. Lastly, this will be important for future property splits.

7. NEW BUSINESS

None.

8. PLANNING CONSULTANTS COMMENTS

None.

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9. MOTION TO RECEIVE AND FILE ALL CORRESPONDENCE IN CONNECTION WITH THIS AGENDA.

MOTION by GALLAGHER seconded by PROVENZANO to receive and file all correspondence.

MOTION carried.

ADJOURNMENT

MOTION by SELVA seconded by SLOSSON to adjourn the meeting at 7:18 P.M.

MOTION carried.

Respectfully submitted,

Brian Florence, Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary

BK